

REMARKS

Claims 1, 11, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Janky in view of Bi. In response, Applicant files this Preliminary Amendment concurrently with a Request for Continued Examination, and requests reconsideration. No new matter has been added.

The present invention relates to a system and method that permits a wireless communications network to determine the geographic location of a mobile device, even when the mobile device cannot determine its position on its own. More particularly, a mobile device that is equipped with a GPS receiver, for example, periodically determines its geographic position information. When the mobile device receives a position request from the wireless communications network, it typically responds by transmitting the geographic positioning information to the network. Often times, however, the mobile device cannot obtain the geographic position information because it is located in an area of poor reception, such as in a building. In these cases, a conventional mobile device cannot transmit the geographic position information, or it must transmit outdated information to the network. A mobile device configured according to the present invention, however, recognizes this situation and continuously transmits a tone to the network. The wireless communications network can then determine the position of the mobile device by using the transmitted tone by using triangulation, for example. Thus, the present invention makes a decision on which information to transmit – position information or tone – based on whether it can or cannot determine position information on its own.

Claim 1 has been amended to now recite, “a transceiver ... configured to ... transmit ... geographic position information if the positioner is able to determine the geographic position information ... and ...continuously transmit a tone if the positioner is not able to determine the geographic position information.” Claims 11 and 19 have also been amended to recite similar language.

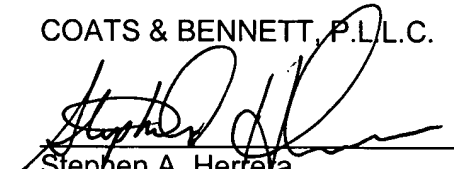
The Examiner admits that Janky fails to teach that a transceiver continuously transmits a tone that is used by a wireless communications network to determine the mobile device's position. More importantly, Janky also fails to teach or suggest that the mobile device transmits either the position information or the tone depending upon whether the mobile device can determine its own position information. Janky simply discloses transmitting a signal responsive to a request only, and therefore, necessarily relies on the assumption that the device will *always* be able to determine its position. "Theoretically, three or more GPS satellites will be visible from most points on the Earth's surface, and visual access to two or more such satellites can be used to determine an observer's position anywhere on the Earth's surface, 24 hours per day." *Janky*, col. 12, ll. 1-5. Janky never contemplates what would occur if the queried device could not determine its own position.

Bi also fails to teach or suggest that the mobile device transmits either the position information or the tone depending upon whether the mobile device can determine its own position information. In Bi, a mobile terminal transmits signals when originating a call or responding to a page. A plurality of network location terminals monitor the communication channels during specific intervals, and determines the geographic position of the mobile terminal *only* when the mobile terminal originates a call or responds to a page. Bi never contemplates that the mobile terminal transmits either position information or a tone depending upon whether the mobile terminal can determine the position information on its own.

Therefore, both Janky and Bi fail to teach or suggest, alone or in combination, any of claims 1, 11, or 19. As such, Applicant respectfully requests the allowance of all pending claims.

Respectfully submitted,

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